

CERTIFIED FOR PARTIAL PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**ENVIRONMENTAL PROTECTION
INFORMATION CENTER et al.,**

Plaintiffs and Respondents,

A104828

v.

**CALIFORNIA DEPARTMENT OF
FORESTRY AND FIRE PROTECTION
et al.,**

**(Humboldt County
Super. Ct. No. CV990445)**

**Defendants and Appellants;
PACIFIC LUMBER COMPANY et al.,
Real Parties in Interest and Appellants.**

[And three other cases.*]

**ORDER MODIFYING OPINION
AND DENYING PETITIONS FOR REHEARING**

The opinion filed on December 12, 2005, is modified as follows:

1. On page 12, the second sentence of the second paragraph is deleted and replaced with the following sentence:

“Because the July 1998 Public Review Draft did not reflect the buffer zones, the projections on timber inventory, growth, and harvest for the Sustained Yield Plan were revised and added to the final EIS/EIR in Appendix Q.”

2. On page 25, in the first complete sentence, delete “§§ 956.3-956.12” and replace with “§§ 916.3-916.12.”

* *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (A105391); *United Steelworkers of America v. California Department of Forestry and Fire Protection* (A104830); *United Steelworkers of America v. California Department of Forestry and Fire Protection* (A105388).

3. On page 32, line 2, in the first full paragraph, delete the phrase “which pulled together” and replace with the phrase “which purported to pull together.”

4. In footnote 26 on page 36, delete the last sentence of the final paragraph and replace with the following sentence:

“What plaintiffs overlook is that the Implementation Agreement keeps the protective measures in place regardless of the existence of the Incidental Take Permit.”

5. On page 38, line 2, in the first full paragraph, replace the word “short” with the the word “near.”

6. On page 45, in the first line of the first full paragraph, the word “present” is inserted between “a” and “taking” so that the sentence reads:

“The Incidental Take Permit itself expressly does *not* authorize a present taking of the spotted owl.”

7. On page 55, the third sentence, in the final paragraph, beginning with “The notification required by statute” and the parenthetical citation that follows it are deleted and replaced with the following:

“The notification required by statute is simply a notice of the proposed “activity” that will divert, obstruct, or change the natural flow of a river, stream, or lake. (Former Fish & Game Code, § 1603, subd. (a).)”

8. On page 64, line 5, in the second full paragraph, the word “reflects” is deleted and replaced with “reflect.”

9. On page 73, the last sentence, in the first full paragraph, the word “list” is deleted and replaced with “mere listing.”

10. On page 73, delete the entire second paragraph beginning with “In any event,”

The modifications do not change the judgment.

The petitions for rehearing are denied.